

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SERGIO L. SHAW,

Plaintiff,

v.

BRIAN NEUMAIER,

Defendant.

ORDER

09-cv-747-bbc

Plaintiff Sergio Shaw is proceeding on his Eighth Amendment claim that defendant Brian Neumaier failed to protect him from self harm. On May 28, 2010 I ordered defendant to produce evidence from his personnel file including any complaint, investigation, report, legal or disciplinary proceeding or other evidence that defendant intentionally or recklessly mistreated any inmate, staff member or civilian, or was indifferent to the medical, security or safety needs of any person together with his educational background and job history. Now before the court is plaintiff's motion for sanctions or judgment of default, dkt. #48.

In his motion plaintiff argues that he has not been provided the defendant's relevant disciplinary records. To support his argument he relies on a phrase in an email from defendant's attorney that "no benefit information shall be sent." Plaintiff interprets this phrase to mean that the prison officials agreed among themselves not to produce the disciplinary records because he would use the documents to his benefit. Plaintiff misinterprets the phrase. The phrase concerning "benefits" means information such as insurance benefits information that would include confidential identifying information.

In his response, defendant states that not disciplinary records exist in defendant's personnel file. He cannot provide them if they do not exist. Therefore, plaintiff's motion for sanctions will be denied.

ORDER

IT IS ORDERED that plaintiff Sergio Shaw's motion for sanctions or judgment by default, dkt. 48, is DENIED.

Entered this 8th day of July, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge